IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.57 of 2007

IN

SUMMARY SUIT NO.1526 OF 2006

Heeramani L. Shroff. ...Plaintiff.

vs.

Valia Chemicals Pvt.Ltd. & ors. ...Defendants.

Ms.K.A.Lalwani, for Plaintiff.

Ms.Jyoti Tangsali i/b. Shah & Sanghavi, for Defendants.

CORAM: D.K.DESHMUKH, J.

DATED: 6th MARCH,2007.

P.C.:

1. Immediately on being served with the writ of summons, the defendants sought inspection of the documents on which the plaintiff relies, in the month of July,2006. Instead of giving inspection of the documents, the plaintiff took out this summons for judgment. Really speaking if the defendants have sought inspection of the documents on which the plaintiff relies, the plaintiff should have given inspection of the documents and only then should have

taken out the summons for judgment. Order 37 of the C.P.C. gives only ten days time to the defendant to make an application for leave to defend on being served with the summons for judgment. Therefore, the plaintiff was justified in seeking inspection of documents after being served with the writ of summons. The conduct of the plaintiff of not giving inspection of documents to the defendants raises doubt about the authenticity of the documents on which the plaintiff relies and suggests that the plaintiff wanted to have unfair advantage by not giving inspection. Therefore, the defendants are entitled to leave to defend. The summons for judgment is disposed of. The defendants are granted unconditional leave to defend the suit. Written statement to be filed within six weeks from today.